

ANNE GOODWIN CRUMP
VINCENT J. CURTIS, JR.
THOMAS J. DOUGHERTY, JR.
JAMES G. ENNIS
PAUL J. FELDMAN
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LEONARD R. RAISH
JAMES P. RILEY
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(202) 828-5700

TELECOPIER NUMBER

(202) 828-5786

PAUL D.P. SPEARMAN
(1936-1982)
FRANK ROBERSON
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RETIRED
RUSSELL ROWELL
EDWARD F. KENEHAN
ROBERT L. HEALD
FRANK U. FLETCHER

OF COUNSEL
EDWARD A. CAINE

TELECOMMUNICATIONS CONSULTANT
HON. ROBERT E. LEE

WRITER'S NUMBER
(202) 828-
5770

ORIGINAL
FILE

ORIGINAL
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January 7, 1993

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JAN - 7. 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Attention: Allocations Branch

RE: Petition for Rulemaking
FM Table of Allotments
Cleveland and Ebenezer, Mississippi

Dear Ms. Searcy:

Transmitted herewith, on behalf of Radio Cleveland, Inc., licensee of WCLD-FM, Cleveland, Mississippi, and James L. Haffey, d/b/a JimBar Enterprises, permittee of WZBR-FM, Ebenezer, Mississippi, are an original and four copies of their "Petition for Rulemaking and Request for Modification of License," which requests deletion of the Channel 280A FM allotment at Ebenezer, Mississippi, and substitution of Channel 280C3 for Channel 280A at Cleveland, Mississippi, and modification of WCLD-FM's license to specify operation thereon.

Should any additional information be required, please contact this office.

Very truly yours,

FLETCHER, HEALD & HILDRETH

Frank R. Jazzo
Frank R. Jazzo
Counsel for
Radio Cleveland, Inc. and
James L. Haffey, d/b/a
JimBar Enterprises

FRJ/es
Enclosures

No. of Copies rec'd
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JAN - 7 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b)) MM Docket No. _____
Table of FM Allotments) RM- _____
Cleveland and Ebenezer, Mississippi)

To: Chief, Allocations Branch

**PETITION FOR RULEMAKING AND
REQUEST FOR MODIFICATION OF LICENSE**

Radio Cleveland, Inc. ("RCI"), licensee of WCLD-FM, Channel 280A, Cleveland, Mississippi, and James L. Haffey, d/b/a JimBar Enterprises ("JimBar"), permittee of WZBR-FM, Channel 280A, Ebenezer, Mississippi, by their attorney, hereby petition the Commission to institute a rulemaking proceeding for the purpose of making the following amendments to Section 73.202(b) of the FCC's Rules, the Table of FM Allotments:

<u>Community</u>	<u>Existing</u>	<u>Allotments</u>
Cleveland, Mississippi	224A, 252C3, 280A	224A, 252C3, 280C3
Ebenezer, Mississippi	280A	---

In addition, RCI requests that the FCC modify the license of WCLD-FM to specify operation on Channel 280C3 at Cleveland, Mississippi, in lieu of Channel 280A, pursuant to Section 1.420(g)(3) of the FCC's Rules. The FCC may modify WCLD-FM's license without considering competing expressions of interest consistent with Section 1.420(g)(3) because Channel 280C3 is a higher class co-channel allotment at Cleveland, Mississippi, with respect to the current Channel 280A allotment. See Report and

Order in MM Docket No. 85-313, FCC 86-181, released April 29, 1986, and First Report and Order in MM Docket No. 86-144, FCC 86-590, released February 3, 1987.

RCI and JimBar hereby jointly request that the FCC delete the Channel 280A allotment at Ebenezer, Mississippi. JimBar is the permittee of WZBR-FM, which is assigned to Channel 280A at Ebenezer, Mississippi.¹ JimBar has determined that Ebenezer, an unincorporated place with a 1984 estimated population of 150, cannot feasibly support a new FM station in light of current economic conditions. RCI joins JimBar in requesting the deletion of the Channel 280A at Ebenezer, Mississippi.

The attached Technical Statement of Doug C. McDonell (Exhibit 2 hereto) demonstrates that the requested channel substitution can be made consistent with the minimum distance separation requirements of Section 73.207(b) of the FCC's Rules.² Operation of WCLD-FM on Channel 280C3 will provide Cleveland, Mississippi, and the surrounding area with a second wide-area coverage FM allotment, and will permit RCI to increase significantly WCLD-FM's coverage area and improve its service to the public.

If Channel 280C3 is substituted for Channel 280A at Cleveland,

¹ JimBar is separately turning its construction permit for WZBR-FM in to the FCC for cancellation simultaneously herewith. A copy of JimBar's cancellation request is attached hereto as Exhibit 1.

² The proposed substitution of Channel 280C3 at Cleveland, Mississippi, is short-spaced with the Channel 280A allotment at Ebenezer, Mississippi. With the requested deletion of Channel 280A at Ebenezer, Mississippi, however, Channel 280C3 can be allotted to Cleveland, Mississippi, from a site approximately two kilometers east of Cleveland, Mississippi.

Mississippi, and WCLD-FM's license is modified to specify operation thereon, RCI will promptly file the necessary application for construction permit for modification of WCLD-FM's facilities, and when authorized, will expeditiously construct upgraded facilities for WCLD-FM.

In accordance with Section 1.401(d) of the FCC's Rules, a draft Notice of Proposed Rulemaking is attached hereto as Exhibit 3.

WHEREFORE, for the foregoing reasons, RCI and JimBar respectfully request that the FCC amend Section 73.202(b) of its rules by substituting Channel 280C3 for Channel 280A at Cleveland, Mississippi, and deleting Channel 280A at Ebenezer, Mississippi. RCI also requests that WCLD-FM's license be modified to specify operation on Channel 280C3 at Cleveland, Mississippi.

Respectfully submitted,

RADIO CLEVELAND, INC.
and JAMES L. HAFLEY,
D/B/A JIMBAR ENTERPRISES

By:


Frank R. Jazzo

Their Attorney

FLETCHER, HEALD & HILDRETH
1225 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036
(202) 828-5700

January 7, 1993

Exhibit 1

JIMBAR CP CANCELLATION REQUEST

ANNE GOODWIN CRUMP
VINCENT J. CURTIS, JR.
THOMAS J. DOUGHERTY, JR.
JAMES G. ENNIS
PAUL J. FELDMAN
RICHARD HILDRETH
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HON. ROBERT E. LEE

WRITER'S NUMBER
(202) 828-

5770

January 7, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Attention: FM Branch

RE: Request for Cancellation
of Construction Permit
James L. Haffey, d/b/a JimBar Enterprises
WZBR-FM
Ebenezer, Mississippi
(BPH-900424ME/BMPH-920116ID)

Dear Ms. Searcy:

On behalf of James L. Haffey, d/b/a JimBar Enterprises ("JimBar"), permittee of WZBR-FM, Ebenezer, Mississippi (BPH-900424ME/BMPH-920116ID), we hereby turn in the attached WZBR-FM construction permit for cancellation. JimBar has determined that, in light of current economic conditions, it is not feasible to complete construction of WZBR-FM. JimBar is simultaneously herewith joining with Radio Cleveland, Inc., licensee of WCLD-FM, Cleveland, Mississippi, in filing a Petition for Rulemaking requesting that the FCC delete Channel 280A at Ebenezer, Mississippi, from the FM Table of Allotments and substitute Channel 280C3 for Channel 280A at Cleveland, Mississippi, and modify the license of WCLD-FM to specify operation thereon.

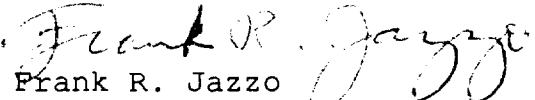
FLETCHER, HEALD & HILDRETH

Ms. Donna R. Searcy
January 7, 1993
Page Two

Should any additional information be required, please contact
this office.

Very truly yours,

FLETCHER, HEALD & HILDRETH


Frank R. Jazzo
Counsel for James L. Haffey,
d/b/a JimBar Enterprises

FRJ/es
Enclosure



FEDERAL COMMUNICATIONS COMMISSION
FM BROADCAST STATION CONSTRUCTION PERMIT

Official Mailing Address:

J.L. HAFLEY D/B/A JIMBAR ENTERPRISES
P.O. BOX 87
EBENEZER, MS 39064

Authorizing Official:

Brian F. Monahan
Robert D. Greenberg
Supervisory Engineer, FM Branch
for Audio Services Division
Mass Media Bureau

Grant Date: JUL 07 1992]

Call sign: WZBR

Permit File No.: BMPH-9201161D

This permit expires 3:00 am.
local time 06 months after
grant date specified above

This permit modifies Permit No.: 900424ME

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

This permit shall be automatically forfeited if the station is not ready for operation within the time specified (date of expiration) or within such further time as the Commission may allow, unless completion of the station is prevented by causes not under the control of the permittee. See Sections 73.3598, 73.3599 and 73.3534 of the Commission's Rules.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Name of permittee:

JAMES LEO HAFLEY D/B/A JIMBAR ENTERPRISES

Station Location:

MS-EBENEZER

Frequency (MHz): 103.9

Channel: 280

Call sign: WZBR

Permit No.: BMPH-920116ID

Class: A

Hours of Operation: Unlimited

Transmitter location (address or description):

MIDWAY CROSSROADS IN YAZOO COUNTY, MISSISSIPPI

Transmitter: Type accepted. See Sections 73.1660, 73.1665 and 73.1670
of the Commission's Rules.

Transmitter output power: As required to achieve authorized ERP.

Antenna type: (directional or non-directional): Non-directional

Antenna coordinates: North Latitude: 32 53 13.0
West Longitude: 90 11 39.0

	Horizontally Polarized Antenna	Vertically Polarized Antenna
Effective radiated power in the horizontal plane (kW) :	6.0	6.0
Height of radiation center above ground (meters) :	98.0	98.0
Height of radiation center above mean sea level (meters) :	193.0	193.0
Height of radiation center above average terrain (meters) :	100.0	100.0
Overall height of antenna structure above ground (including obstruction lighting, if any) :	102.0 meters	

Obstruction marking and lighting specifications for antenna structure:

It is to be expressly understood that the issuance of these specifications is in no way to be considered as precluding additional or modified marking or lighting as may hereafter be required under the provisions of Section 303(q) of the Communications Act of 1934, as amended.

Paragraph 1.0, FCC Form 715 (March 1978):

Antenna structures shall be painted throughout their height with alternate bands of aviation surface orange and white, terminating with aviation surface orange bands at both top and bottom. The width of the bands shall be equal and approximately one-seventh the height of the structure, provided however, that the bands shall not be more than 100 feet nor less than 1 and 1/2 feet in width. All towers shall be cleaned and repainted as often as necessary to maintain good visibility.

Paragraph 3.0, FCC Form 715 (March 1978):

There shall be installed at the top of the structure one 300 m/m electric code beacon equipped with two 620- or 700-watt lamps (PS-40, Code Beacon type), both lamps to burn simultaneously, and equipped with aviation red color filters. Where a rod or other construction of not more than 20 feet in height and incapable of supporting this beacon is mounted on top of the structure and it is determined that this additional construction does not permit unobstructed visibility of the code beacon from aircraft at any normal angle of approach, there shall be installed two such beacons positioned so as to insure unobstructed visibility of at least one of the beacons from aircraft at any normal angle of approach. The beacons shall be equipped with a flashing mechanism producing not more than 40 flashes per minute nor less than 12 flashes per minute with a period of darkness equal to approximately one-half of the luminous period.

Paragraph 11.0, FCC Form 715 (March 1978):

At the approximate mid point of the over-all height of the tower there shall be installed at least two 116- or 125-watt lamps (A21/TS) enclosed in aviation red obstruction light globes. Each light shall be mounted so as to insure unobstructed visibility of at least one light at each level from aircraft at any normal angle of approach.

Paragraph 21.0, FCC Form 715 (March 1978):

All lighting shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on at a north sky light intensity level of about 35 foot candles and turned off at a north sky light intensity level of about 58 foot candles.

Paragraph 22.0, FCC Form 715 (March 1978):

During construction of an antenna structure, for which obstruction lighting is required, at least two 116- or 125-watt lamps (A21/TS) enclosed in aviation red obstruction light globes, shall be installed at the uppermost point of the structure. In addition, as the height of the structure exceeds each level at which permanent obstruction lights will be required, two similar lights shall be displayed nightly from sunset to sunrise until the permanent obstruction lights have been installed and placed in operation, and shall be positioned so as to insure unobstructed visibility of at least one of the lights at any normal angle of approach. In lieu of the above temporary warning lights, the permanent obstruction lighting fixtures may be installed and operated at each required level as each such level is exceeded in height during construction.

Exhibit 2

TECHNICAL STATEMENT OF
DOUG C. McDONELL

TECHNICAL STATEMENT
RADIO CLEVELAND, INC.
WCLD-FM
CLEVELAND, MISSISSIPPI

This technical statement has been prepared on behalf of Radio Cleveland, Inc. ("RCI"), licensee, under BLH-7320, of radio station WCLD-FM, Cleveland, Mississippi. RCI is also a permittee, under BPH-920116IF, to make changes in the licensed facilities.

RCI requests an upgrade of the class of channel allotted to Cleveland, Mississippi from Class A to Class C3 by amending Section 73.202(b) of the Commission Rules.

The attached Channel Study indicates adequate separation has been provided to all known stations, allotments, and proposals with the exception of WZBR, Ebenezer, Mississippi. This upgrade will be possible since the permittee of radio station WZBR is returning the outstanding Construction Permit to the Commission and requesting deletion of Channel 280A from Ebenezer.

The reference point used for the Channel Study is located approximately 2.0 km east of the city of Cleveland and is shown on the attached map. From this location, the 70 dBu contour will encompass the community of license.

Since RCI has authorized preparation of this technical statement and filed it with the Commission, it is apparent there is an intent to apply for, and construct, Class C3 facilities at Cleveland, Mississippi.

930104

DOUG C. MC DONELL
TECHNICAL CONSULTANT
2830 WAUBESA AVENUE
MADISON, WI 53711

-2-

This technical statement has been prepared by me and is true of my knowledge, except as to such statements based on information provided, which I believe to be true.

4 January 1993

A handwritten signature in black ink, appearing to read 'Doug C. McDonell', with a stylized flourish at the end.

Doug C. McDonell

DOUG C. MC DONELL
TECHNICAL CONSULTANT
2830 WAUBESA AVENUE
MADISON, WI 53711

SINGLE CLASS CHANNEL STUDY
 FM CHANNEL 280 C3 103.9 MHZ
 CLEVELAND, MISSISSIPPI
 SEARCHING: MS,TN,KY,AL,LA,TX,AR,OK,MO

DATABASE DATE: 11-25-1992
 RUN DATE: 01-04-1993

LATITUDE: 33 43 59
 LONGITUDE: 90 41 38

****STUDY USES 6 KW CLASS A SEPARATIONS****

CHANNEL & CLASS	CALL	STATUS	CITY	ST	COORDINATES	MINIMUM KM	CALCULATED KM (MI)
226			NONE				
227			NONE				
277			NONE				
278A		USED	Lake Village	AR	331808 911518	42	70.7(43.9)
278A	NEW	CP	Lake Village	AR	331656 911302	42	69.7(43.3)
279C	KKYK	LIC	Little Rock	AR	344755 922958	176	204.0(126.8)
279C		USED	Little Rock	AR	344755 922958	176	204.0(126.8)
*280A	WCLD-FM	LIC	Cleveland	MS	334401 904250	142	1.9(1.2)
*280A	WCLD-FM	CP	Cleveland	MS	334401 904250	142	1.9(1.2)
*280A		USED	Cleveland	MS	334401 904250	142	1.9(1.2)
*280A	WZBR	CP MOD	Ebenezer	MS	325313 901139	142	104.7(65.1)
*280A		USED	Ebenezer	MS	325413 901018	142	104.1(64.7)
281C		USED	Monroe	LA	323936 920515	176	176.2(109.5)
281C	KJLO-FM	LIC	Monroe	LA	323936 920515	176	176.2(109.5)
281A		VACANT	Clarendon	AR	343719 912246	89	117.1(72.8)
282C3 SS	WGNL	APP	Greenwood	MS	333130 900952	43	54.3(33.7)
282A	WGNL	CP	Greenwood	MS	333130 900952	42	54.3(33.7)
282C3 SS	WGNL	CP	Greenwood	MS	332156 901459	43	58.0(36.0)
282C3		VACANT	Greenwood	MS	333548 901550	43	42.7(26.5)
283			NONE				

NONE indicates clearance within a 32 km (20 mi)
 extension of the required minimum separation.

SS indicates the station applied under
 Section 73.215 (SHORT SPACED) of the rules
 providing contour protection without
 using a Directional Antenna.

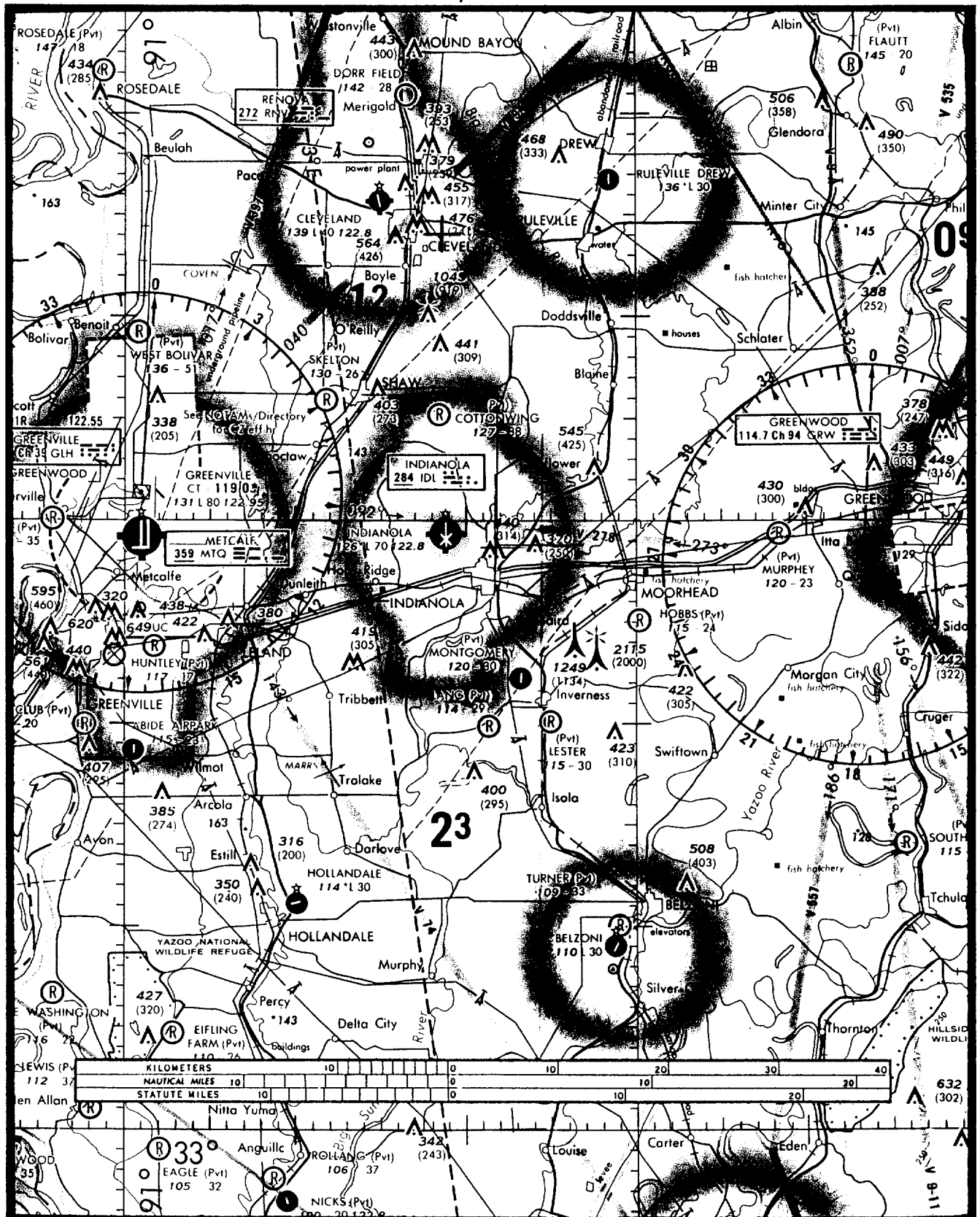
The data used in this study is taken from the FCC FM Engineering Database
 released by the Commission on 11-25-1992. The data is considered as a
 secondary source and may not agree with information contained in the primary
 source (see Section 0.434(e) of the Rules).

Doug C. McDonell, Technical Consultant does not assume any responsibility for
 erroneous or incomplete data contained in the FCC Database.

930104

DOUG C. MC DONELL
 TECHNICAL CONSULTANT
 2830 WAUBESA AVENUE
 MADISON, WI 53711

REFERENCE POINT AND CITY OF LICENSE
RADIO CLEVELAND, INC.
WCLD-FM
CLEVELAND, MISSISSIPPI



930104

DOUG C. MC DONELL
TECHNICAL CONSULTANT
2830 WAUBESA AVENUE
MADISON, WI 53711

Exhibit 3

DRAFT NOTICE OF PROPOSED RULEMAKING

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b)) MM Docket No. ____
Table of Allotments) RM-_____
FM Broadcast Stations)
Cleveland and Ebenezer, Mississippi)

NOTICE OF PROPOSED RULE MAKING

By the Chief, Allocations Branch

1. Radio Cleveland, Inc. ("RCI"), licensee of Station WCLD-FM, currently operating on Channel 280A at Cleveland, Mississippi, and James L. Haffey, d/b/a JimBar Enterprises ("JimBar"), permittee of WZBR-FM, currently operating on Channel 280A at Ebenezer, Mississippi ("Petitioners"), filed a petition for rule making on January 7, 1993, seeking to substitute Channel 280C3 for Channel 280A at Cleveland, Mississippi, and requesting the issuance of a modified license for WCLD-FM to change its assigned channel from Channel 280A to 280C3. Petitioners also requested that Channel 280A be deleted at Ebenezer, Mississippi. RCI stated its intention to use the upgraded channel, if assigned. The requested substitution can be made in compliance with the mileage separation requirements.

2. In view of the foregoing, the Commission believes it appropriate to propose amending the FM Table of Allotments (Section 73.202(b) of the Commission's Rules) with regard to the following communities:

Channel No.

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Cleveland, Mississippi	224A, 252C3, 280A	224A, 252C3, 280C3
Ebenezer, Mississippi	280A	----

The Commission also believes it appropriate, pursuant to Section 1.420(g)(3), to propose modification of RCI's license, as requested, to specify operation on Channel 280C3, because Channel 280C3 is a mutually exclusive higher class co-channel.

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before _____, and reply comments on or before _____, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on Petitioners' counsel as follows:

Frank R. Jazzo, Esquire
Fletcher, Heald & Hildreth
1225 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, §73.202(b) of the Commission's Rules. See, Certification that Section 603 and 604 of the Regulatory Flexibility Act do Not Apply to Rule Makings

to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 Fed. Reg. 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact _____, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An ex parte contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who file the comment to which the reply is directed constitutes an ex parte presentation and shall not be considered in the proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Chief, Allocations Branch
Mass Media Bureau